International Seabed Authority ISBA/10/A/12

Assembly

Distr.: General
4 June 2004

Original: English

Tenth session
Kingston, Jamaica
24 May-4 June 2004

Statement of the President on the work of the Assembly at the tenth session

1. The tenth session of the Assembly of the International Seabed Authority was held at Kingston, Jamaica, from 24 May to 4 June 2004.

Adoption of the agenda

2. At its 91st meeting, on 24 May 2004, the Assembly adopted its agenda for the tenth session (ISBA/10/A/L.1). Special mention was made of the commemorative session to celebrate the tenth anniversary of the establishment of the Authority.

Election of the President and Vice-Presidents of the Assembly

3. At the 91st meeting, on 24 May 2004, Dennis Francis (Trinidad and Tobago) was elected President of the Assembly for 2004. Subsequently, following consultations in the regional groups, the representatives of Namibia (African Group), Viet Nam (Asian Group), Bulgaria (Eastern European Group) and Norway (Western European and Other States Group) were elected as Vice-Presidents.

Appointment of the Credentials Committee

4. The Assembly elected a Credentials Committee in accordance with rule 24 of its rules of procedure. The following were elected as members of the Credentials Committee: Austria, Brazil, Czech Republic, Ghana, Greece, Jamaica, Japan, Malaysia and Uganda. Subsequently, Helmut Tuerk (Austria) was elected by the Committee as its Chairman. The Committee met on 1 June 2004 and held a further meeting on 3 June 2004. The meeting of 1 June 2004 examined the credentials of representatives participating in the current session. The status of those credentials was contained in a memorandum by the secretariat dated 1 June 2004. The meeting of 3 June 2004 examined credentials communicated by an additional 10 States participating in the Assembly as of 3 June 2004. The report of the Committee is contained in document ISBA/10/A/7/Rev.1. At the meeting held on 3 June 2004 the Assembly adopted the report of the Credentials Committee. The decision of the Assembly relating to credentials is contained in document ISBA/10/A/9.

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Special session to celebrate the tenth anniversary of the establishment of the Authority

5. On 25 May 2004 (morning and afternoon) and 26 May 2004 (morning), the Authority held a commemorative special session to celebrate the tenth anniversary of the establishment of the International Seabed Authority. The occasion marked the tenth anniversary of the entry into force of the United Nations Convention on the Law of the Sea on 16 November 1994. The International Seabed Authority was established upon entry into force of the Convention.

6. During the morning meeting of the Assembly on 25 May 2004, Dennis Francis, President of the Assembly, welcomed delegations to the commemorative special session. He pointed out that the Authority's work had now entered the crucial phase of undertaking the operational aspects of exploration for mineral resources from the deep seabed. The Assembly then heard statements by Satya N. Nandan, Secretary-General of the International Seabed Authority, and P. J. Patterson, Prime Minister of Jamaica. Ralph Zacklin, Acting Legal Counsel of the United Nations, delivered a message from the Secretary-General of the United Nations. Statements were also made by Judge Dolliver Nelson, President of the International Tribunal for the Law of the Sea, and Judge Jose Luis Jesus, also of the Tribunal and second Chairman of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea (1987-1994). Messages from Ambassador Tommy T. B. Koh, President of the Third United Nations Conference on the Law of the Sea (1980-1982), and Joseph Warioba, former Prime Minister of the United Republic of Tanzania and first Chairman of the Preparatory Commission for the International Seabed Authority and the International Tribunal for the Law of the Sea (1983-1987), were read by Nii Allotey Odunton, Deputy to the Secretary-General of the International Seabed Authority and Interim Director-General of the Enterprise. On behalf of the five regional groups, statements were made by their chairpersons: Sandile Nogxina of South Africa (African Group), Hai-ung Jung of the Republic of Korea (Asian Group), Olav Myklebust of Norway (Western European and other States Group), Antonin Parizek of the Czech Republic (Eastern European Group), and Cezar de Souza Lima of Brazil (Latin American and Caribbean States Group).

7. In his message, the Secretary-General of the United Nations commended the Authority's key role in efforts under the 1982 United Nations Convention on the Law of the Sea to manage the diverse challenges associated with ocean space and its uses. He also praised the Authority for its diligent and inspiring work over the past decade, and for showing that multilateral approaches to global challenges could be effective, equitable and enduring.

8. P. J. Patterson, Prime Minister of Jamaica, which is host to the International Seabed Authority, said his Government had done all it could to ensure that the Authority settled into its new home easily and comfortably. He said that the signing of the Headquarters Agreement in 1999 and the completion of the Supplementary Agreement, slated for adoption by the Assembly at the current session, were strong signals of his Government's long-term commitment and dedication.

9. In his statement to the Assembly, Satya N. Nandan, the Secretary-General of the Authority, said that there was an urgent need to enhance efforts in research and exploration of the oceans. In that regard, he said that last year he had drawn the attention of the United Nations General Assembly to the need for a declaration of

support for ocean research and exploration. He also said that, without adequate scientific research, management of the oceans could not be conducted on a sound scientific basis.

10. Judge Dolliver Nelson, President of the International Tribunal for the Law of the Sea, appealed for the moral and material support of the international community as a whole for the successful achievement of the objectives underlying the Tribunal's establishment. He also emphasized that the Tribunal's composition ensured the representation of the principal legal systems of the world and equitable geographical distribution.

11. Judge Jose Luis Jesus said that the progress achieved by the Authority in implementing its mandate had brought the possibilities of commercial exploitation of deep seabed mineral resources a step closer to reality.

12. In his message to the Assembly, Ambassador Tommy T. B. Koh made three points. First, he said that the crowning achievement of the Convention was that it had replaced legal chaos with legal certainty; secondly, that the International Seabed Authority was the venue for functional collaboration in resource management, creating a new basis for participation in the development of ocean resources so that all nations might benefit, and, thirdly, he paid tribute to the Secretary-General of the International Seabed Authority, noting that his unique style of quiet, professional and consensus-building diplomacy was one of the secrets for the success of the Authority.

13. In his message to the Assembly, Joseph Warioba noted that it was 36 years since the distinguished Permanent Representative of Malta, Ambassador Arvid Pardo, had placed the seabed item on the agenda of the United Nations General Assembly. He said that, despite the weaknesses that existed in the Convention, it was an instrument in which all groups of States, developing and developed, could point to the contribution of an item, making it a truly universal instrument. With regard to the order that the Convention had brought to the oceans, Mr. Warioba said that, as a result of the establishment of the exclusive economic zone, for example, serious conflicts among States had been averted, and a regime that encouraged cooperation in the administration and management of the uses and resources of the exclusive economic zone had been introduced. Mr. Warioba said that, above all, the principle and concept of the common heritage of mankind had been firmly established, and that, despite the weakening and dilution of Part XI of the Convention, the Authority was steadily contributing to ocean governance.

14. During the afternoon meeting of 25 May 2004, the Assembly heard presentations from the first of two Panels of Experts. The first Panel reviewed the achievements of the Authority and was under the chairmanship of Baidy Diene, President of the Council for 2004. Panellists were Hasjim Djalal of Indonesia, the first President of the Assembly of the Authority, who spoke on the establishment of institutions of the Authority; Inge Zaamwani of Namibia, a former Chairperson of the Legal and Technical Commission, who reviewed the work of the Commission from 1997 to the present; Yuri Kazmin of the Russian Federation, who made a presentation on administering the polymetallic nodule resources of the deep seabed; Mao Bin, Secretary-General of the China Ocean Mineral Resources Research and Development Association, who made a presentation on China's initiatives and investments in deep ocean mineral exploration; and Harsh Gupta, Secretary of the Department of Ocean Development of India, who made a presentation on the

activities of India in deep ocean mineral exploration. He also emphasized the importance of contractors collaborating with each other, especially in the field of technology development for deep seabed mining and also in the exchange of data and information in order to accelerate seabed mining and to minimize its costs.

15. The second Panel of Experts, on future directions and prospects for the Authority, met on 26 May 2004. Albert Hoffman of South Africa, Chairman of the Legal and Technical Commission, moderated the Panel. Panellists were Felipe Paolillo, Permanent Representative of Uruguay to the United Nations and Co-Chairman of the United Nations Informal Consultative Process on Ocean Affairs, who made a presentation on the history of the negotiations relating to Part XI of the Convention and the International Seabed Authority and the events that had led to its establishment; Chris German of the Southampton Oceanography Centre, United Kingdom of Great Britain and Northern Ireland, made a presentation on the status and prospects for deep seabed mineral resources; P. John Lambshead of the British Natural History Museum in London made a presentation on the research being carried out on deep seabed biodiversity in the nodule provinces of the Pacific Ocean; Brian Bett of the Southampton Oceanography Centre and of the Census of Marine Life, who made a presentation on the deep-ocean environment and the protection of its biodiversity; and Tullio Scovazzi of the Faculty of Law, University of Milano-Bicocca, Milan, Italy, offered a legal perspective on the future direction of the Authority and the uncertainty of the applicable law concerning deep seabed biodiversity and the need for clarifying this law.

Election to fill a vacancy on the Finance Committee

16. At the 93rd meeting of the Assembly, a representative of the Eastern European Group informed the Assembly that the Group would be unable to nominate a candidate to fill the vacancy created by the resignation of Ivo Dreiseitl of the Czech Republic until the eleventh session. The Assembly agreed to defer the election to fill the vacancy until the eleventh session pending a nomination from the Eastern European Group.

Annual report of the Secretary-General

17. At the 92nd meeting of the Assembly, the Secretary-General introduced his annual report to the Assembly (ISBA/10/A/3), as required by article 166, paragraph 4, of the United Nations Convention on the Law of the Sea. The Secretary-General informed the Assembly that his report for 2004 recapitulated the Authority's work since its inception in November 1994. He noted that the organizational phase of the work of the Authority was complete and that the Authority had entered into a new substantive phase. He informed the Assembly that in the next three years, 2005-2007, the secretariat's work programme would focus on, among others, the Authority's supervisory functions with respect to exploration contracts, the preparation of an appropriate regulatory regime for the future development of seafloor sulphides and cobalt-rich crusts deposits of the Area, and the promotion and encouragement of marine scientific research there. He also informed participants that a key component of the secretariat's work from 2005 to 2007 would be the establishment of a geological model of polymetallic nodule deposits in the Clarion-Clipperton fracture Zone of the Pacific Ocean, where all but one of the seven exploration contracts issued by the Authority are located. The Secretary-General stated that over the next three years, the secretariat intended to explore the

possibility of obtaining funds from the Global Environment Facility to further the international collaborative work required to manage environmental impacts from deep seabed mining. In addition, the Secretary-General informed participants that he intended to explore the possibilities for seconding specialized scientific and technical staff from relevant national and international institutions to carry out specific projects within the scope of the Authority's work programme and to strengthen the Authority's technical capabilities.

18. Following the presentation by the Secretary-General, statements were made by the delegations of Argentina, Australia, Austria, the Bahamas, Brazil (on behalf of the Latin American and Caribbean Group of States and on its own behalf), Canada, China, Chile, Côte d'Ivoire, Fiji, Germany, Greece, Ghana, Guinea, Indonesia, Jamaica, Kenya, Mexico, Namibia (on behalf of the African Group), New Zealand (on behalf of the Pacific Island Group), Nigeria, Norway (on behalf of the Western European and Other States Group), Pakistan, Papua New Guinea, Poland, the Republic of Korea, the Russian Federation, South Africa, St. Kitts and Nevis, the Sudan, Trinidad and Tobago, Uganda, the United Kingdom of Great Britain and Northern Ireland and Viet Nam. The observer delegation of Morocco also made a statement. Members expressed their general satisfaction with the detailed report and indicated their support for the work programme outlined in the report for 2005-2007. A number of members made interventions on specific subjects contained in the report.

19. Members of the Assembly welcomed Canada and Lithuania, which had become parties to the 1982 Convention since the ninth session, and also welcomed the fact that Burkina Faso and Morocco were taking steps to become parties to the Convention and members of the Authority.

20. The Assembly expressed its satisfaction at the conclusion of the Supplementary Headquarters Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority and the use of the Jamaica Conference Centre complex (see ISBA/10/A/2-ISBA/10/C/2). The Assembly approved the Agreement, and congratulated the Secretary-General and the Government of Jamaica on the successful completion of this important agreement and the conclusion of a long-standing matter.

21. Jamaica reaffirmed its commitment to provide the most suitable and appropriate environment for the Authority to conduct its work, and advised that it had begun to implement a number of measures aimed at enhancing security around the premises of the Authority. Jamaica said that the measures included improved lighting around the perimeter of the headquarters building, the demolition or restoration of nearby derelict buildings, the provision of transportation services for local staff and the raising of the perimeter wall. Jamaica restated its unwavering commitment to the fulfilment of all its obligations under the Headquarters Agreement and stated its strong opposition to any suggestions to convene meetings of the Authority at any location other than at its headquarters in Kingston or to have meetings of the Assembly every two years. On the employment of spouses and partners of officers of secretariat staff, members of the Authority were informed that a draft text of an agreement on the matter was being completed by the Government of Jamaica to resolve this outstanding issue. Some delegations pointed to the need to

strengthen the geographical balance within the secretariat and in the technical bodies of the Authority.

22. A number of the members expressed their concern with the level of contributions to the voluntary trust fund to help defray the costs of participation by members from developing countries in the meetings of the Finance Committee and the Legal and Technical Commission. At the 93rd meeting, the representative of Norway informed the Assembly that Norway would contribute US$ 25,000.00 to the voluntary trust fund.

23. The Assembly took note of the substantive work of the Authority outlined in section XII of the report of the Secretary-General. It was noted that the Authority would only truly evolve through adjustments in its programme of work. In this regard, several delegations expressed satisfaction with the five main areas identified in paragraph 105 of the report, on which the programme of work for 2005-2007 will be focused.

24. Several delegations expressed their satisfaction with the inclusion of the promotion and encouragement of marine scientific research in the Area as a focal point in the proposed programme of work of the Authority. It was pointed out that the promotion of marine scientific research was fundamental to the work of the Authority, as was the protection and preservation of the marine environment. It was also pointed out that, since very little was known of the marine environment, the establishment of databases on the marine environment, as outlined in paragraphs 109 and 110 of the report, would be useful to members of the Authority.

25. Many delegations expressed satisfaction with the Authority's programme of scientific and technical workshops. The delegations of Côte d'Ivoire, Ghana and Kenya offered to host workshops as a means of disseminating information to greater numbers of technical staff in their regions, as did South Africa and Namibia in separate communications to the Secretary-General. In this regard, a number of delegations spoke of the need for capacity-building and encouraged the Authority to seek ways to assist in this regard.

26. Several delegations welcomed the steps being taken by the Authority with regard to biodiversity in the Area, noting that the Authority's role was to protect the marine environment from the potential harmful effects of deep seabed mining. It was noted that the evaluation of the ecology of the deep ocean was a very important aspect of the Authority's work. A few delegations expressed satisfaction with paragraph 132 of the report and stated that the Authority was the institution that should administer the exploitation of genetic materials in the Area. It was suggested that the Authority should convene a seminar on the legal issues involved in the present system of exploiting these resources. Other delegations urged the Authority to work closely with other relevant international organizations and scientific institutions that have competence and knowledge of the genetic resources of the Area. The Assembly also acknowledged the work of the Authority in promoting and encouraging marine scientific research in the Area through such projects as the Kaplan Fund project.

27. The delegation of the Republic of Korea reiterated its request to the Secretary-General to provide the Assembly, prior to the next election to the Council, with updated information on the eight States parties that have made the largest investments in preparation for and in the conduct of activities in the Area. It was

noted, in this regard, that it was for the Assembly to establish lists of countries fulfilling the criteria for membership in the various groups in the Council and that there would be a need to develop a common understanding among the potential members of the group on the criteria to be used. The Assembly was informed that the members of Group B, the largest investors in seabed mining, were consulting on criteria for that group.

Tribute to Helmut Beiersdorf

28. The Assembly held a special commemorative sitting at its 93rd meeting to honour the memory of Helmut Beiersdorf, a German geologist and member of the Legal and Technical Commission since 1998. Mr. Beiersdorf, who was 66 and had been attending the current session of the Authority, died in a boating accident on 30 May 2004. He was the Director-General of the Federal Institute for Geosciences and Natural Resources in Hanover, Germany, at the time of his death.

29. The President of the Assembly, the Secretary-General, representatives of the five regional groups, members of the Legal and Technical Commission, and other members of the Assembly paid tribute to Mr. Beiersdorf.

Budget of the Authority for the financial period 2005-2006

30. At its 95th meeting, the Assembly considered the report and recommendations of the Finance Committee (ISBA/10/A/6-ISBA/10/C/7), noting that the recommendations had been considered and approved by the Council. Questions were raised with regard to the use of interest from the pioneer investor fund to finance the voluntary trust fund, and whether or not the scale of assessments for the administrative budget of the Authority for 2005 was final.

31. The representative of Japan submitted document ISBA/10/A/10, a draft resolution on the modalities for financing participation in the meetings of the Legal and Technical Commission and the Finance Committee, to the Assembly. The draft resolution proposed modalities, and terms and conditions for using the voluntary trust fund established to facilitate the participation of developing country members of the Legal and Technical Commission and the Finance Committee in meetings of the two bodies. The representative of Japan said that the draft resolution had been introduced because Japan felt that it was improper to use money from the pioneer fund to defray expenses of those members. He said that all resources in the fund, including principal and interest, belonged to the fund and that the Authority's financial rules prohibited their use for purposes not originally stipulated. The representative of Japan requested that the Secretary-General should provide the Assembly with the legal justification for the above action and the status of the pioneer investor fund at the eleventh session. It was pointed out that, in accordance with the Authority's rules of procedure, the Finance Committee would have to consider the contents of draft resolution ISBA/10/A/10 and make its recommendation on it to the Council, which in turn would make its recommendation to the Assembly at the eleventh session.

32. It was suggested that, in view of paragraph 5 of the decision of the Council of the Authority relating to the budget of the Authority for the financial period 2005-2006, which reads:

> "Authorizes the Secretary-General to establish the scale of assessments for 2005 and 2006 based on the scale used for the regular budget of the United Nations for 2004 and 2005 as adjusted by the Authority, respectively, taking into account that the maximum assessment rate will be 22 per cent and the minimum rate 0.01 per cent",

the scale of assessments circulated to the members of the Assembly should be considered as a preliminary scale subject to the provisions of paragraph 5 of the budget decision.

33. At its 96th meeting, following consideration of the report and of the matters outlined above, the Assembly, on the recommendation of the Council, decided:

(a) To adopt the budget of the Authority for the financial period 2005-2006 in the sum of US$ 10,817,600.00;

(b) To adopt the scale of assessments for 2005 and 2006 in accordance with the recommendations of the Finance Committee and subject to the condition noted in paragraph 32 above;

(c) That, in respect of Canada and Lithuania, which became members of the Authority in 2003, the rate of assessment and the amounts of contributions to the general administrative fund and the Working Capital Fund shall be as recommended in paragraph 18 of the report of the Finance Committee (ISBA/10/A/6-ISBA/10/C/7).

34. In accordance with rule 94 of its rules of procedure, the Assembly decided to give due consideration at its next session in 2005 to the draft resolution (ISBA/10/A/10) introduced by Japan. This would require the Finance Committee to consider the draft resolution and to make its recommendations on it available to the Council and the Assembly.

35. The decision of the Assembly relating to the budget of the Authority for the financial period 2005-2006 is contained in document ISBA/10/A/8.

36. The Assembly appealed to all members of the Authority to pay their assessed contributions in full and on time. The Assembly also appealed to members, as well as others in a position to do so, to make contributions to the voluntary trust fund.

Election of Council members for the period from 1 January 2005 to 31 December 2008

37. At its 95th meeting, the Assembly, in accordance with article 161, paragraph 3, of the United Nations Convention on the Law of the Sea, elected 20 members of the 36-member Council for the period from 1 January 2005 to 31 December 2008. Those elected were:

- Group A (4 States from among the largest consumers or net importers of minerals derived from seabed mining): Japan and China
- Group B (4 States from those with the largest investment in seabed mining): United Kingdom and India
- Group C (4 States that are major land-based net exporters of minerals found on the deep seabed): Portugal and South Africa. (By special arrangement between

them, Canada will replace Australia for the remainder of Australia's term (2005-2006).)

- Group D (6 developing States representing special interests, including those with sparse populations, the land-locked or geographically disadvantaged, island, major importers or potential producers, and the least developed): Brazil, Malaysia and the Sudan
- Group E (18 States reflecting the principle of geographical distribution, as well as a balance between developed and developing States): Gabon, Namibia, Senegal, Kenya, Poland, Netherlands, Spain, Czech Republic, Argentina, Guyana, and Trinidad and Tobago.

38. The arrangements for groups A and B are without prejudice to future elections for the two groups and any interim arrangements for substitutions in those groups. One member from the Latin American and Caribbean Group will not have a vote for the year 2005, as part of the rotation in burden-sharing by regional groups other than the Eastern European Group. The decision by the Latin American and Caribbean Group on the non-voting member will be communicated to the secretariat in due course.

Election of the Secretary-General

39. The Assembly of the International Seabed Authority, at its 96th meeting on 3 June 2004, elected the current Secretary-General of the Authority, Satya N. Nandan, to serve a third four-year term.

40. Ambassador Nandan, who had held the position since March 1996, obtained 48 votes. Ambassador Charles Manyang D'Awol of the Sudan, the choice of the African Union, obtained 29 votes.

41. The number of members present and voting was 78. The number of invalid votes was 1.

Next meeting of the Assembly

42. The next meeting of the Assembly will be held from 15 to 26 August 2005 at the Authority's headquarters in Kingston, Jamaica.